

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 10-6534

UNITED STATES OF AMERICA,

Petitioner - Appellant,

v.

LONNIE PARKER, JR.,

Respondent - Appellee.

No. 10-6536

UNITED STATES OF AMERICA,

Petitioner - Appellant,

v.

JAMES WOODRUFF,

Respondent - Appellee.

Appeals from the United States District Court for the Eastern District of North Carolina, at Raleigh. W. Earl Britt, Senior District Judge. (5:07-hc-02079-BR; 5:07-hc-02110-BR)

Submitted: September 8, 2010

Decided: September 16, 2010

Before GREGORY, DUNCAN, and AGEE, Circuit Judges.

Affirmed by unpublished per curiam opinion.

George E. B. Holding, United States Attorney, R.A. Renfer, Jr., Assistant United States Attorney, Beth S. Brinkmann, Deputy Assistant Attorney General, Tony West, Assistant Attorney General, Mark B. Stern, Anisha S. Dasgupta, DEPARTMENT OF JUSTICE, Washington, D.C., for Appellant. Thomas P. McNamara, Federal Public Defender, Jane E. Pearce, Assistant Federal Public Defender, Eric J. Brignac, Research and Writing Specialist, Raleigh, North Carolina, for Appellees.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

In these consolidated appeals, the Government challenged the district court's orders dismissing its 18 U.S.C. § 4248 (2006) petitions for civil commitment of Lonnie Parker and James Woodruff, who were both convicted of various sex offenses and sentenced in military court-martial proceedings, but are currently housed within a Bureau of Prisons facility. The district court dismissed the Government's petitions because it found that "§ 4248 does not apply to military prisoners [since] they are not 'in the custody of the Bureau of Prisons' pursuant to 18 U.S.C. § 4248(a)." In so holding, the district court relied on its order in a related case, United States v. Joshua, No. 5:09-hc-02035-BR (E.D.N.C. Jan. 13, 2010), which was recently affirmed by this court. See United States v. Joshua, 607 F.3d 379 (4th Cir. 2010) (holding that an individual convicted and sentenced by United States Army court-martial but housed within a facility operated by the Bureau of Prisons is not "in the custody of the Bureau of Prisons" under § 4248(a)). The Government concedes that these appeals present the same issue addressed in, and that the disposition of the appeals is controlled by Joshua.

Because we agree that Joshua controls the outcome of these appeals, we affirm the district court's orders dismissing the Government's petitions. Thus, although we deny Appellees'

unopposed motion for summary disposition as moot, we grant Appellees' unopposed motion to issue the mandate forthwith and order that Appellees be released from confinement. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED